

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

IN THE MATTER OF:

PRC Patterson Superfund Removal Site
Patterson, California
(including Tank V, in Vernalis, California)

Atlantic Richfield Corporation

ADMINISTRATIVE ORDER ON CONSENT
FOR REMOVAL ACTION

U.S. EPA Region IX
CERCLA
Docket No. 2001-08

Proceeding Under Sections 104,
106(a), 107, 122(a) and 122(h) of the
Comprehensive Environmental
Response, Compensation and
Liability Act, as amended, 42
U.S.C. Sections 9604, 9606(a), 9607
9622(a), and 9622(h).

I. JURISDICTION AND GENERAL PROVISIONS

This Administrative Order on Consent ("Order") is entered into voluntarily by the United States Environmental Protection Agency, Region IX ("US-EPA") and the Atlantic Richfield Corporation (herein, "ARCO," or the "Respondent"). This Order provides for the performance of a response action by Respondent in connection with the above ground storage tank commonly identified as "Tank V," located at 1141 Highway 33 in Vernalis, California (the "Vernalis Tank"), as defined below, and the resolution of a Response Action in connection with property located at 13331 Highway 33 in Patterson, California (the "PRC Patterson Superfund Removal Site" or the "Patterson Site"), also defined below. Respondent is required by this Order to conduct the response action described herein to abate an imminent and substantial endangerment to the public health, welfare or the environment, as initially directed by Administrative Order dated April 10, 1998, US-EPA Docket No. RCRA 7003 98-09-01 (the "ARCO Order").

This Order is issued pursuant to the authority vested in the President of the United States by Sections 104, 106(a), 107, 122(a), and 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), (42 U.S.C. Sections 9604, 9606(a), 9607, 9622(a), and 9622(h), respectively), and delegated to the Administrator of the United States Environmental Protection Agency by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the US-EPA Regional Administrators by US-EPA Delegation Nos. 14-14-A and 14-14-C. As such, this Order embodies a settlement between Respondent and the United States under the provisions of CERCLA.

Respondent's participation in this Order shall not constitute or be construed as an admission of either liability or of the Findings of Fact, Conclusions of Law or Determinations contained in this Order except in a proceeding to enforce the terms of this Order. Respondent agrees to comply with and be bound by the terms of this Order. Respondent further agrees that it will not contest the basis or validity of this Order or its terms.

II. PARTIES BOUND

This Order applies to and is binding on US-EPA, and on the Respondent, its successors and assigns. Any change in ownership or corporate status of the Respondent, including but not limited to any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this Order. Each signatory to this Agreement certifies that he or she is authorized to enter into the terms and conditions of this Agreement and to bind legally the party represented by him or her.

Respondent shall ensure that its contractors, subcontractors, and representatives receive a copy of this Order and comply with this Order. Respondent shall be responsible for any noncompliance with this Order.

///

III. DEFINITIONS

Unless otherwise expressly provided herein, terms used in this Order that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever the terms listed below are used in this Order, or in any attachments hereto and incorporated hereunder, the following definitions shall apply:

"Administrative Order on Consent," "AOC" or "Order" shall mean this Administrative Order on Consent for Removal Action, US-EPA Docket No. 2001-08, and all attachments hereto.

"Amended Unilateral Administrative Order" or "UAO 98-12A" shall mean the Amended Unilateral Administrative Order For Performance of Removal Action, US-EPA Docket No. 98-12A, issued November 22, 1999 and effective November 30, 1999, and all exhibits attached thereto. UAO 98-12A amended and superceded UAO 98-12, defined below.

"ARCO Order" shall mean the Administrative Order, US-EPA Docket No. RCRA 7003 98-09-01, issued by US-EPA to ARCO on April 10, 1998.

"CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments & Reauthorization Act of 1986, 42 U.S.C. Section 9601 et seq.

"Chevron Order" shall mean the Administrative Order, US-EPA Docket No. RCRA 7003 98-09-02, issued by US-EPA to Chevron Corporation ("Chevron") on April 10, 1998.

"Contractor" shall mean Respondent's contractors and subcontractors performing the installation/construction, and operation and maintenance activities relating to any of the specific actions at the Vernalis Tank, which Respondents are required to perform.

"Day" shall mean a calendar day unless expressly stated to be a Business Day. "Business Day(s)" shall mean a day other than a Saturday, Sunday, or federal holiday. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next Business Day.

"National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. §9605, codified at 40 C.F.R. Part 300.

"Oversight Costs" shall mean all past, present and future costs, including, but not limited to, direct and indirect costs and interest incurred or paid by the United States, its employees, agents, contractors, consultants, and other authorized representatives, with regard to the Patterson Site and the Vernalis Tank.

"Patterson Site" shall mean the PRC Patterson Superfund Removal Site, encompassing the former PRC Patterson facility of approximately 20 acres, located at 13331 Highway 33 in Patterson, Stanislaus County, California, approximately 2 miles north of the City of Patterson.

"Paragraph" shall mean a portion of this Order identified by an Arabic numeral, unless otherwise indicated herein.

"Parties" shall mean US-EPA, on behalf of the United States, and ARCO.

"Respondent" shall mean ARCO, unless otherwise stated herein.

"Section" shall mean a portion of this Order identified by a Roman numeral and may include one or more paragraphs, unless otherwise stated herein.

"State" shall mean the State of California, and all of its political subdivisions, including the California Environmental Protection Agency's Department of Toxic Substances Control ("DTSC").

"Unilateral Administrative Order" or "UAO 98-12" shall mean the Unilateral Administrative Order For Performance of Removal Action, US-EPA Docket No. 98-12, issued August 12, 1998, and all exhibits attached thereto.

"United States" shall mean the United States of America.

"US-EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

"Vernalis Tank" shall mean the above ground storage tank commonly identified as "Tank V," located at 1141 Highway 33 in Vernalis, California, which is the subject of the ARCO Order, and on which is located, inter alia, a large storage tank containing an approximate one million gallons of sludge and waste materials.

IV. FINDINGS OF FACT

1. The Patterson Site is located at 13331 North Highway 33 in Patterson, Stanislaus County, California. The approximately 20-acre parcel is surrounded primarily by agricultural land. The City of Patterson is located approximately two miles south of the Patterson Site. There are numerous irrigation canals located in the immediate vicinity of the Patterson Site. Several of these canals drain into Del Puerto Creek, which flows within a mile of the Patterson Site. Del Puerto Creek flows into the San Joaquin River.
2. Facility operations were commenced in the early 1980's by Recycletron Oil Inc. ("RCI"), a California corporation, doing business as Refineries Services. RCI was a recycler of waste oil and oily water. In 1989, RCI merged with Petroleum Recycling Corporation, a

California corporation. Shortly thereafter, a wholly separate California corporation, PRC Patterson ("PRC") was formed.

3. Between 1987 and 1988, certain waste material from ARCO's Watson Refinery was shipped to Brent Petroleum in Long Beach, California. These waste materials then were transported to Cal Western Fuels in Bakersfield, California, and then finally to PRC's main facility in Patterson, California. PRC stored these waste materials at the Patterson Site in the 1930's vintage storage tank designated "Tank S-1."
4. On or about June 5, 1989, Tank S-1 failed, and released in excess of one million gallons of waste material. PRC removed and transported the spilled waste materials, the resulting contaminated soil, and the remaining contents of Tank S-1 to the Vernalis Tank.
5. PRC continued to operate until it abandoned the Patterson Site sometime in 1997. In its operations, PRC did not remove all of the waste material from the Vernalis Tank, and consequently PRC abandoned the Vernalis Tank when PRC abandoned the Patterson Site. An approximate one million gallons of waste material remains at the Vernalis Tank.
6. On October 31, 1997, US-EPA received a verbal request for assistance at the Patterson Site from DTSC. US-EPA, in conjunction with DTSC, conducted a preliminary inspection of the facility on that date and made the following observations: US-EPA observed that the operator of the Patterson Site apparently had abandoned the facility and that general site conditions had begun to deteriorate. The facility lacked security and had been heavily vandalized. Because of the age and condition of the petroleum storage tanks and containers, many tanks and containers at the Patterson Site appeared to pose a substantial risk of failure. Several of these tanks were leaking.
7. On November 18, 1997, following the receipt of a written request for assistance from DTSC, US-EPA initiated an emergency response action to stabilize these unsafe and dangerous conditions that presented an endangerment to the public health, welfare, and the environment. US-EPA provided security at the Patterson Site, upgraded the perimeter fence and berm, and pumped down the liquid level in several storage tanks that were either overflowing or on the verge of overflowing.
8. From December 1 through December 6, 1997, US-EPA conducted an assessment of the Patterson Site. Results of sampling and analyses conducted during this assessment are presented in the March 1998 report entitled "Enviropur/PRC Patterson Oil Recycling Facility Removal Assessment" prepared by Ecology and Environment. The following is a brief inventory of items and materials stored onsite at the time that the report was published:
 - a. Numerous process tanks, storage tanks, pressure tanks, pumps, a water treatment system, filtration equipment, heating, distillation and refining equipment, office trailers, laboratory trailers, and a large warehouse. The tanks and equipment contained varying amounts of oil, sludge, wastewater or mixtures of all three

substances. Many of the tanks were observed to be leaking. Two of the large storage tanks had large holes in their roofs.

- b. Several of the large storage tanks contained large volumes of liquid. US-EPA determined that Chevron generated a significant volume of waste in one of these tanks, designated "Tank S-3." Accordingly, US-EPA issued the Chevron Order, thereby directing Chevron to complete a response action toward Tank S-3. The remaining wastes at the Patterson Site were commingled wastes from numerous generators, including ARCO.
9. The sampling conducted by US-EPA's contractor of the waste oil and waste material at the Patterson Site confirmed the presence of Cadmium, Chromium, Copper, Lead, Mercury and Nickel. The threat of a release of these hazardous substances was exacerbated by the aging and dilapidated condition of the storage tanks at the Patterson Site. Conditions at the Patterson Site included the lack of a roof on the storage tank designated "Tank S-4," several holes in the roof of Tank S-1, a large hole in the roof of Tank S-3, seasonal rains, the lack of regular or routine inspection and maintenance, and the fact that PRC, the owner and operator, had abandoned the facility.
10. Concurrent with the inspection of the Patterson Site, US-EPA investigated the Vernalis Tank. The materials stored at the Vernalis Tank contain hazardous substances. US-EPA believes that ARCO was a generator of a significant quantity of the wastes at the Vernalis Tank. On April 10, 1998, US-EPA issued the ARCO Order, directing ARCO to conduct a separate removal action for the sludge and oil located in the Vernalis Tank.
11. On August 12, 1998, US-EPA issued UAO 98-12, requiring that the named entities, including Chevron and ARCO, conduct a removal action with respect to the waste oil, sludge, and oily wastewater present at the Patterson Site, excluding Tank S-3.
12. In response to UAO 98-12, a group of 19 of the 53 potentially responsible parties named as respondents formed the Patterson Environmental Response Group ("Group") to cooperate in complying with the terms of UAO 98-12. The Group also established the Patterson Environmental Response Trust ("Trust") to provide a mechanism for undertaking and funding the response actions required by UAO 98-12. The Group, through the Trust, undertook compliance with UAO 98-12.
13. On November 22, 1999, US-EPA issued an amendment to UAO 98-12, which became effective on November 30, 1999. This Amended Unilateral Administrative Order, UAO 98-12A, superseded UAO 98-12, and included all the parties named in the original order, as well as additional responsible parties in connection with the Patterson Site. The Trust assumed the responsibility to complete the response action required under UAO 98-12 and UAO 98-12A, and that required response action now is complete. To facilitate an efficient method to determine compliance with UAO 98-12 and UAO 98-12A, US-EPA provided notice to the potentially responsible parties that US-EPA would consider their contribution, participation or other settlement of liability with the Trust as compliance

with UAO 98-12 or UAO 98-12A. The Trust has informed US-EPA that Respondent has entered into an agreement for contribution, participation or other settlement of liability with the Trust.

14. Most wastes at the Patterson Site were documented only by bills of lading that do not detail the characteristics and particular qualities of the wastes. Therefore, because the wastes at the Patterson Site were commingled, there is no evidence suggesting that the wastes Respondent contributed are more toxic or of significantly greater hazardous effect than other wastes at the Patterson Site.
15. By separate order on consent, US-EPA intends to provide a covenant not to sue and contribution protection to the Trust and, except for Respondent, those parties that contributed, participated or otherwise settled with the Trust (the "Settling Trust Parties"). The covenant not to sue and contribution protection intended for the Trust and the Settling Trust Parties includes the scope of work anticipated in UAO 98-12A, the Chevron Order and the ARCO Order.
16. By this Order, US-EPA intends to resolve Respondent's compliance with UAO 98-12A and the ARCO Order, to structure an appropriate response action at the Vernalis Tank, and to provide Respondent with a covenant not to sue and contribution protection. The covenant not to sue and contribution protection intended for the Respondent by this Order includes the scope of work anticipated in UAO 98-12A, the Chevron Order and the ARCO Order, subject to the express terms and conditions of this Order.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the Findings of Fact set forth above, and the Administrative Record supporting this action, US-EPA has made the following conclusions of law and determinations:

1. The Patterson Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. Section 9601(9). The Vernalis Tank is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. Section 9601(9).
2. The contaminants found at the Patterson Site and the Vernalis Tank, as identified in Section IV of this Order, "Findings of Fact," include "hazardous substances" as defined by Section 101(14) of CERCLA, 42 U.S.C. Section 9601(14).
3. Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. Section 9601(21), and Section 1004(15) of RCRA, 42 U.S.C. Section 6903(15).
4. Respondent may be liable at the Patterson Site and the Vernalis Tank under Section 107(a) of CERCLA, 42 U.S.C. Section 9607(a).
5. The conditions that existed at the Patterson Site, as described in UAO 98-12A and Section IV of this Order ("Findings of Fact"), constituted an actual or threatened

"release" of a hazardous substance from the facility as defined by Section 101(22) of CERCLA 42 U.S.C. Section 9601(22).

6. The actual or threatened release of hazardous substances from the Patterson Site presented an imminent and substantial endangerment to the public health, welfare, or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. Section 9606(a), which included, but was not limited to the following:
 - a. actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, pollutants or contaminants; and
 - b. hazardous substances, pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers, which posed a threat of release.
7. The conditions at the Patterson Site constituted an imminent and substantial threat to public health, welfare, or the environment based on a consideration of the factors set forth in the NCP at 40 C.F.R. Section 300.415(b), and that the actions required by UAO 98-12, as amended by UAO 98-12A, and this Order are necessary to protect the public health, welfare, or the environment.
8. The conditions that exist at the Vernalis Tank, as described in the ARCO Order and Section IV of this Order ("Findings of Fact"), constitute an actual or threatened "release" of a hazardous substance from the facility as defined by Section 101(22) of CERCLA 42 U.S.C. Section 9601(22).
9. The actual or threatened release of hazardous substances from the Vernalis Tank presents an imminent and substantial endangerment to the public health, welfare, or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. Section 9606(a), which include, but are not limited to the following:
 - a. actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, pollutants or contaminants; and
 - b. hazardous substances, pollutants or contaminants in the bulk storage container and associated piping, which pose a threat of release.
10. The conditions at the Vernalis Tank constitute an imminent and substantial threat to public health, welfare, or the environment based on a consideration of the factors set forth in the NCP at 40 C.F.R. Section 300.415(b), and that the actions required by the ARCO Order and this Order are necessary to protect the public health, welfare, or the environment.
11. Prompt settlement with Respondent is practicable and in the public interest as may be required within the meaning of Section 122(a) of CERCLA, 42 U.S.C. Sections 9622(a).

12. The actions required by this Order, if properly performed, will be deemed consistent with the NCP, and are appropriate to protect the public health, welfare, or the environment.

VI. NOTICE TO THE STATE

US-EPA has notified the State of California of the issuance of this Order pursuant to Section 106(a) of CERCLA, 42 U.S.C. Section 9606(a) by providing the Department of Toxic Substances Control (DTSC) a copy of this Order.

VII. ORDER

Based on the foregoing Findings of Fact and Conclusions of Law and Determinations, and the Administrative Record for this action, it is hereby ordered and agreed that Respondent shall comply with the following provisions, including but not limited to any attachments to this Order, and all documents incorporated by reference into this Order. Respondent, either itself or by retaining contractors as set forth in this Order, shall complete the response action as provided for in the ARCO Order and this Order, and perform the following actions:

1. Designation of Project Coordinator and On-Scene Coordinator

Respondent shall designate a Project Coordinator who shall be responsible for overseeing Respondent's implementation of this Order. To the greatest extent possible, during work at the Vernalis Tank the Project Coordinator shall be present or readily available. Receipt by Respondent's Project Coordinator of any notice or communication from US-EPA relating to this Order shall constitute receipt by Respondent.

US-EPA designates Richard Martyn, an employee of Region IX of US-EPA, as its primary On-Scene Coordinator ("OSC") and representative for the response action to be performed by this Order, who shall have the authorities, duties, and responsibilities vested in the OSC by the NCP. Respondent shall direct all submissions required by this Order to the OSC at US-EPA, Region IX, 75 Hawthorne Street, San Francisco, California 94105.

Consistent with the provisions of this Order, US-EPA designates John Jaros as an alternate OSC, in the event the designated OSC, Rich Martyn, is not present at the Vernalis Tank, has expressly delegated duties or responsibilities to the alternate OSC, or is otherwise unavailable. The alternate OSC shall have the authority, duties and responsibilities vested in the OSC when acting in the stead of the primary OSC. Nothing in this Order shall limit the authority of the US-EPA OSC under federal law.

US-EPA and Respondent may change their respective primary and alternative OSC and Project Coordinator. Notification of such change shall be made by notifying the other Party in writing at least five (5) days prior to such change, except in case of emergency, in which case notification shall be made orally followed by written notification as soon as possible.

For purposes of this Order, US-EPA's authorized representatives shall include, but not be limited to, any consultants and contractors hired by US-EPA to oversee activities required by this Order.

2. General Provisions

- a. All work required by this Order shall be conducted in accordance with: CERCLA; the NCP; EPA Region IX "Guidance for Preparing Quality Assurance Project Plans for Superfund Remedial Projects" (US-EPA, November 1992); any final amended or superseding versions of such documents provided by US-EPA; other applicable US-EPA guidance documents; and any report, document or deliverable approved by US-EPA or prepared by US-EPA because Respondent failed to comply with this Order.
- b. All plans, schedules, and other reports that require US-EPA's approval and are required to be submitted by the Respondent pursuant to this Order shall, on approval by US-EPA, be incorporated into and become enforceable under this Order.
- c. US-EPA will oversee Respondent's activities as specified in Section 104(a)(1) of CERCLA, 42 U.S.C. §9604(a)(1). Respondent will support US-EPA's initiation and implementation of activities needed to carry out its oversight responsibilities. Respondent also shall cooperate and coordinate the performance of all work required to be performed under this Order with any other work being performed at the Vernalis Tank, including work performed by US-EPA, the State, or any other party performing work with the approval of US-EPA.
- d. Respondent shall undertake all actions required by this Order in accordance with the requirements of all applicable local, state, and federal laws and regulations unless an exemption from any such requirement is specifically provided under CERCLA or unless the Respondent obtains a variance or exemption from the appropriate governmental authority.
- e. All work performed by or on behalf of Respondent pursuant to this Order shall be performed by qualified individuals or contractors with expertise in hazardous waste site investigation or remediation, unless agreed otherwise by US-EPA. US-EPA has approved Clayton Group Services, Inc. as the Contractor selected by ARCO to prepare and implement the Sampling and Analysis Plan. Respondent shall notify US-EPA in writing of the name, title and qualifications of the individual(s) who will be responsible for preparing and implementing the Tank Removal and Workplan as required pursuant to the terms of this Order, and the name(s) of any contractor(s) or subcontractor(s). The qualifications of the persons, contractors, and subcontractors undertaking the work for Respondent shall be subject to US-EPA review and approval.

- f. If US-EPA disapproves of any person's or contractor's technical or work-experience qualifications, US-EPA will notify the Respondent in writing. Respondent shall, within five (5) working days of Respondent's receipt of US-EPA's written notice, notify US-EPA of the identity and qualifications of the replacement(s). Should US-EPA disapprove of the proposed replacement(s), Respondent shall be deemed to have failed to comply with the Order.
- g. Respondent may propose to change the individual(s), contractor(s), or subcontractor(s) retained to direct and supervise the work required by this Order. If Respondent wishes to propose such a change, the Respondent shall notify US-EPA in writing of the name, title, and qualifications of the proposed individual(s), proposed contractor(s), or proposed subcontractor(s), and such individual(s), contractor(s) or subcontractor(s) shall be subject to approval by US-EPA in accordance with the terms set forth above. The naming of any replacement(s) by Respondent shall not extend any deadlines required by this Order nor relieve the Respondent of any obligation to perform the work required by this Order.
- h. Respondent will notify US-EPA of any field activities at least one week before initiating them so that US-EPA may adequately schedule oversight tasks.
- i. At least seven (7) days prior to commencing any work at the Vernalis Tank pursuant to this Order, Respondent shall submit to US-EPA a certification that Respondent or its contractor(s) and subcontractor(s) have adequate insurance coverage, proof of ability to self-insure, or have indemnification for liabilities for injuries or damages to persons or property that may result from the activities to be conducted by or on behalf of Respondent pursuant to this Order. Respondent shall ensure that such insurance or indemnification is maintained for the duration of performance of the work required by this Order. Respondent shall ensure that the United States is named as an insured on any such insurance policies.
- j. Beginning from the implementation of the Sampling and Analysis Plan, Respondent shall maintain reasonable security at the Vernalis Tank that meets with US-EPA approval. This requirement shall terminate either on the date of completion of the work required in the approved Tank Removal and Work Plan, or when otherwise terminated in writing by US-EPA, whichever occurs first.

3. Work to Be Performed

The Respondent shall perform the following tasks, which shall constitute the response action under this Order:

- a. Respondent shall perform the work and make submittals and certifications as set forth below within the time schedules specified.

- b. Commencing on the date set forth below, Respondent shall submit monthly progress reports ("Progress Reports") to US-EPA. The first such Progress Report shall be due by the fifteenth (15th) day following the end of the first calendar month after the Effective Date (Section XXII) of this Order, and by the 15th day of each month thereafter until US-EPA notifies Respondent that the response action is complete.
- c. Within twenty-one (21) days after the Effective Date of the Order, Respondent shall submit a Sampling and Analysis Plan, a Health and Safety Plan, and a Contingency Plan. At a minimum, the Sampling and Analysis Plan shall include the following:
 - 1) a detailed description of the methods to be used to identify volume and characteristics of the liquid, sludge or solid materials within The Vernalis Tank; and
 - 2) a detailed description of the sampling and analytical methods to be used to characterize such liquid, sludge or solid materials for disposal purposes.
- d. Within thirty (30) days after US-EPA approves of the Sampling and Analysis Plan, the Respondent shall initiate the work described under that plan.
- e. Within one hundred fifty (150) days after US-EPA approves of the Sampling and Analysis Plan, the Respondent shall submit a Tank Removal Work Plan, which, at a minimum, shall include the following:
 - 1) A detailed description of the methods for removing the liquid, sludge or solid materials within The Vernalis Tank;
 - 2) A detailed description of any treatment, storage, disposal or recycling facility that will receive such waste;
 - 3) Identification of the methods of transport used to haul any waste offsite;
 - 4) Identification of any transporters used to haul any waste offsite;
 - 5) A detailed description of air monitoring to be performed during onsite activities;
 - 6) A detailed description of actions to be taken to minimize air emissions;
 - 7) A plan for the decontamination and demolition of The Vernalis Tank; and
 - 8) A schedule for completion of all activities described in the Tank Removal Work Plan.

- f. Within thirty (30) days after US-EPA approval of the Tank Removal Work Plan, Respondent shall initiate activities described in that plan. The Tank Removal Work Plan should require the Respondent to undertake best efforts to effectuate the completion of all activities within ninety (90) days of US-EPA approval of the plan, subject to US-EPA's consent to an enlargement of time.
- g. Respondent must demonstrate to US-EPA's satisfaction whether the wastes in the Vernalis Tank are listed or characteristic hazardous wastes as defined in 40 C.F.R. Part 261. All subsequent handling, transport and disposal shall be conducted in accordance with the appropriate waste classification.
- h. Except as otherwise stated in this Order, and within US-EPA's sole discretion, any noncompliance with the actions to be performed or the schedules set forth within or approved pursuant to this Order may be considered a violation of this Order.
- i. Within thirty (30) days after completion of all actions required under this Order, the Respondent shall submit for US-EPA review and approval a Final Report summarizing the actions taken to comply with this Order. The Final Report shall conform, at a minimum, with the requirements set forth in Section 300.165 of the NCP entitled "OSC Reports." The Final Report shall include a good faith estimate of total costs or a statement of actual costs incurred in complying with this Order, a listing of quantities and types of materials removed off-site or handled on-site, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destination of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated (e.g., manifests, invoices, bills, contracts, and permits). In addition, the Respondent shall certify, through its contractors, that the Final Report is complete and accurate to the best of their collective knowledge.

4. Notices and Submissions

All documents, including technical reports, and other correspondence to be submitted by the Respondent pursuant to requirements of this Order, shall be sent by overnight mail pursuant to Section XXIII of this Order, "Provision of Notice," and shall be deemed submitted on the date received by US-EPA. Respondent shall submit two (2) copies of each document to US-EPA, and two (2) copies to DTSC. Copies to DTSC shall be delivered via first class U.S. mail.

5. Approval of Submissions

US-EPA shall review, comment on, and approve or disapprove each plan, report, or other deliverable submitted by Respondent pursuant to the requirements of this Order. US-EPA comments on draft deliverables shall be addressed by the Respondent. US-EPA shall notify the Respondent in writing of US-EPA's approval or disapproval of a final deliverable. In the event

of any disapproval, US-EPA shall specify the reasons for such disapproval, US-EPA's required modifications, and a time frame for submission of the revised report, document, or deliverable. If the modified report, document or deliverable is again disapproved by US-EPA, US-EPA shall first notify the Respondent of its disapproval of the resubmitted report, document, or deliverable, and then may draft its own report, document or deliverable and incorporate it as part of this Order, or may conduct the remaining work required by this Order.

6. Access to Property and Information

US-EPA has provided Respondent with documentation representing US-EPA's access rights to the Vernalis Tank and off-site areas to which access is necessary to implement this Order, and by this Order has delegated and assigned such rights to Respondent to the extent necessary to implement this Order. US-EPA retains all such access rights for itself and for US-EPA employees, contractors, agents, consultants, designees, representatives, and State of California representatives.

In the event US-EPA's access rights are withdrawn, Respondent shall obtain and provide access to the Vernalis Tank and off-site areas to which access is necessary to implement this Order.

Respondent shall submit to US-EPA, on request, the results of all sampling or tests and all other data generated by Respondent or its contractors, or on Respondent's behalf with respect to the Patterson Site, including but not limited to the Vernalis Tank, during implementation of this Order.

7. Record Retention, Documentation, Availability of Information

Respondent, individually or through its designated contractor(s), shall preserve all documents and information relating to work performed under this Order, or relating to the solid or hazardous wastes found on or released from the Vernalis Tank, for five (5) years following completion of the response action required by this Order.

Respondent may assert a business confidentiality claim pursuant to 40 C.F.R. §2.203(b) with respect to part or all of any information submitted to US-EPA pursuant to this Order, provided such claim is allowed by Section 104(e)(7) of CERCLA, 42 U.S.C. §9604(e)(7). US-EPA shall disclose information covered by a business confidentiality claim only to the extent permitted by, and by means of the procedures set forth at 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by US-EPA, US-EPA may make it available to the public without further notice to Respondent.

8. Off-Site Shipments

All hazardous substances, pollutants or contaminants removed off-site pursuant to this Order for treatment, storage, or disposal shall be treated, stored, or disposed of at a facility in compliance with OSWER Directive Number 9834.11, November 13, 1987. The US-EPA will provide

information on the acceptability of any facility considering the requirements of Section 121(d)(3) of CERCLA, 42 U.S.C. §9621(d)(3), and the above directive.

9. Compliance with Other Laws

Respondent shall perform all actions required pursuant to this Order in accordance with all applicable local, state and federal laws and regulations, except as provided in CERCLA Section 121(e). In accordance with 40 C.F.R. §300.415(j), all on-site actions required pursuant to this Order shall, to the extent practicable considering the exigencies of the situation as determined by US-EPA, comply with applicable or relevant and appropriate requirements under federal environmental, state environmental or facility siting laws.

10. Emergency Response and Notification of Releases

If any incident or change in site conditions occurs during the actions conducted pursuant to this Order, which causes or threatens to cause an additional release of hazardous substances from the Vernalis Tank or an endangerment to the public health, welfare, or the environment, Respondent shall immediately take all appropriate action in order to prevent, abate or minimize such release or endangerment caused or threatened by the release. Respondent shall take these actions in accordance with all applicable provisions of this Order, including, but not limited to the Health and Safety Plan. Respondent also shall immediately notify the OSC or, in the event of his unavailability, shall notify the alternate OSC designated in this Order. If neither the OSC nor alternate OSC is available, Respondent shall notify the US-EPA Region IX Emergency Response Unit of the incident or site conditions, by telephone at (415) 744-2000.

If Respondent fails to respond, US-EPA may respond to the release or endangerment, and Respondent shall reimburse US-EPA for all costs and attorneys' fees incurred responding to the threat or endangerment.

In addition, in the event of any release of a hazardous substance from the Vernalis Tank, Respondent shall immediately notify US-EPA, Region IX at telephone number (415) 744-2000 and the National Response Center at telephone number (800) 424-8802. Respondent shall submit a written report to US-EPA within seven (7) days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the recurrence of such a release. This reporting requirement is in addition to, not in lieu of, reporting under CERCLA Section 103(c) and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. Sections 11001 et seq.

The requirements of this Paragraph do not apply to any incident, or change in conditions relating to actions conducted pursuant to UAO 98-12 or UAO 98-12A or the Chevron Order, or releases or threats of releases, or an endangerment to the public health, welfare, or the environment related to the subject matter of UAO 98-12 or UAO 98-12A or the Chevron Order, provided that such threat or endangerment is not caused by Respondent or any activity that is the subject of or in the course of this Order, or is not solely known or within the control of Respondent.

11. Notification of Unanticipated or Changed Circumstances

- a. In the event of unanticipated or changed circumstances at the Vernalis Tank, Respondents shall notify the US-EPA OSC by telephone within twenty-four (24) hours of discovery of the unanticipated or changed circumstances. This verbal notification shall be followed by written notification postmarked no later than three (3) days of discovery of the unanticipated or changed circumstances.
- b. The OSC may determine that, in addition to tasks addressed in an approved work plan or otherwise addressed herein, additional work may be required to address the unanticipated or changed circumstances that, if unaddressed, will result in an actual or threatened endangerment to health or the environment. Respondent shall implement such additional work that the OSC identifies if such work is directly related to the Vernalis Tank or any releases therefrom. Respondent shall complete the additional work according to the standards, specifications, and schedules that the OSC determines will remove the endangerment.

12. NCP Compliance

All work Respondent properly performs to comply with this Order shall be consistent with the National Contingency Plan.

VIII. AUTHORITY OF THE US-EPA ON-SCENE COORDINATOR

US-EPA's OSC shall be responsible for overseeing Respondent's implementation of this Order. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any work required by this Order. Absence of the OSC from the Vernalis Tank shall not be cause for stoppage of work unless specifically directed by the OSC.

IX. REIMBURSEMENT OF COSTS

Respondent agrees to pay to the US-EPA a total of five hundred thousand and one dollars (\$500,001.00) as reimbursement for costs incurred by the United States. Respondent shall make this payment by certified check within thirty (30) days after the Effective Date of this Order, as established in Section XXII. The payment check shall reference the PRC Patterson Superfund Removal Action, Site #09EG, and shall be payable as follows:

Hazardous Substance Superfund
U.S. Environmental Protection Agency
Region 9, Attn: Superfund Accounting
P.O. Box 360863M
Pittsburgh, PA 15251

The parties agree that, conditioned on Respondent's completion of the response activities contemplated by this Order, this payment shall satisfy Respondent's obligation for

reimbursement to the United States of Oversight Costs incurred or to be incurred at the Patterson Site and the Vernalis Tank, including any costs incurred in oversight of the response action pursuant to this Order.

US-EPA shall deposit the payment into the PRC Patterson Special Account. US-EPA shall retain and use the the funds in the PRC Patterson Special Account to conduct or finance response actions at or in connection with the Vernalis Tank or the Patterson Site, or for transfer to the Hazardous Substance Superfund.

X. DISPUTE RESOLUTION

The Parties to this Order shall attempt to resolve, expeditiously and informally, any disputes concerning this Order.

If Respondent objects to any US-EPA action taken pursuant to this Order, Respondent shall notify US-EPA in writing of its objections within thirty (30) days of such action, unless the objections otherwise have been informally resolved. All written notices required by this Section shall be given as set forth in Section XXIII of this Order, "Provision of Notice." If Respondent and US-EPA are unable to resolve the dispute by informal negotiation, on written notice to US-EPA, the Respondent may initiate an alternative dispute resolution ("ADR") process, including, but not limited to mediation or fact finding, to be utilized by the parties to facilitate formal negotiations.

US-EPA and Respondent shall have thirty (30) days from US-EPA's receipt of the Respondent's written objections to attempt to resolve the dispute through formal negotiations (the "Negotiation Period"). The Negotiation Period may be extended at the sole discretion of US-EPA. US-EPA's decision regarding an extension of the Negotiation Period shall not constitute a US-EPA action subject to dispute resolution or a final agency action giving rise to judicial review.

The parties to this Order agree to select an ADR professional in accordance with the following procedures:

- a. Within ten (10) days of receipt of the Respondent's notice to initiate use of ADR, the OSC shall forward to Respondent a list of ADR professionals ("ADR Selection List") available through the Dispute Resolution Support Services Contract managed by US-EPA.
- b. Within five (5) days of Respondent's receipt of the ADR Selection List, the parties shall provide each other in writing the names of five (5) persons from the ADR Selection List proposed to serve as ADR professionals for the matter in dispute. The ADR professionals proposed by each Party shall not have any past, present, or planned future business relationships with the parties, other than for ADR activities.

- c. Within two (2) days of the receipt of the list of proposed ADR professionals, each party shall advise the other in writing of acceptable professionals. The parties shall select an ADR professional from the list of acceptable professionals and enter a contract for ADR services with such person within twenty (20) days of the receipt of the list of proposed ADR professionals.

US-EPA agrees to extend the Negotiation Period as appropriate to allow for selection and contracting with ADR professionals. However, inability to select an ADR professional or to execute a contract for ADR services shall not extend the Negotiation Period beyond that specified by US-EPA.

Meetings or conferences with the ADR professional shall be treated as confidential. Statements made by any person during any such meetings or conferences shall be deemed to have been made in compromise negotiations within the meaning of Rule 408 of the Federal Rules of Evidence and applicable state rules of evidence, and shall not be offered in evidence in any proceeding by any person. The ADR professional shall be disqualified as a witness, consultant, or expert in any impending or future legal action relating to the subject matter of this Order, including those legal actions between persons not a party to the mediation. If the selected ADR professional fails to comply with the confidentiality requirements of this section, his/her contract will be terminated and he/she will be excluded from any future mediation under this Order. If a party, whether a Respondent or US-EPA, fails to comply with the confidentiality requirements of this Section, then that party will forfeit its rights under this Order to request future use of ADR, if any remain, and Respondent may be responsible for stipulated penalties for such breach as provided in Section XIII, "Stipulated and Statutory Penalties."

Any agreement reached by the Parties pursuant to this Section shall be in writing, signed by the parties, and shall upon the signature by the parties be incorporated into and become an enforceable element of this Order. If the parties are unable to reach an agreement within the Negotiation Period, a US-EPA management official, of Section Chief level or higher, will issue a written decision on the dispute to the Respondents. The decision of the management official shall be incorporated into and become an enforceable element of this Order on Respondent's receipt of the decision regarding the dispute. Respondent's obligations under this Order shall not be tolled by submission of any request for dispute resolution under this Section. Nothing contained herein shall be construed as precluding Respondent from continuing to perform the Work during the dispute resolution process.

Following resolution of the dispute, as provided by this Section, Respondent shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached during the Negotiation Period or through ADR, whichever occurs. No US-EPA decision made pursuant to this Section shall constitute a final agency action giving rise to judicial review.

///

XI. FORCE MAJEURE

Respondent agrees to perform all requirements under this Order within the time limits established under this Order, unless the performance is delayed by a force majeure. For purposes of this Order, a force majeure is defined as any event arising from causes beyond the control of Respondent or of any entity controlled by Respondent, including but not limited to its contractors and subcontractors, which delays or prevents performance of any obligation under this Order despite Respondent's best efforts to fulfill the obligation. Force majeure does not include financial inability to complete the work or increased cost of performance.

Respondent shall notify US-EPA orally within twenty-four (24) hours after an event that may cause a delay, whether or not caused by a force majeure event, and in writing within five (5) Business Days after Respondent becomes or should have become aware of events that may constitute a force majeure. Such notice shall: identify the event causing the delay or anticipated delay; estimate the anticipated length of delay, including necessary demobilization and remobilization; state the measures taken or to be taken to minimize the delay; and estimate the timetable for implementation of the measures. Respondent shall take all reasonable measures to avoid and minimize the delay. Failure to comply with the notice provision of this section shall waive any claim of force majeure by the Respondent.

If US-EPA agrees that a delay in performance of a requirement under this Order is or was attributable to a force majeure, the time period for performance of that requirement shall be extended by written agreement between US-EPA and Respondent.

An extension of the time for performance of the requirement directly affected by the force majeure event shall not, of itself, extend the time for performance of any subsequent requirement.

If US-EPA does not agree that the delay in performance of a requirement under this Order is or was attributable to a force majeure, or does not agree with Respondent on the length of the extension, the issue shall be subject to the dispute resolution procedures set forth in this Order.

XII. RESERVATION OF RIGHTS

Except as specifically provided in this Order, nothing herein shall limit the power and authority of US-EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent US-EPA from seeking legal or equitable relief to enforce the terms of this Order, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring the Respondents in the future to perform or pay for additional activities pursuant to CERCLA or any other applicable law. In addition to any rights retained in this Section or Section XV, "Other Claims," EPA reserves, and this Order is without prejudice to all rights against Respondents with respect to criminal liability and liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments.

This Order expressly does not address, include, or otherwise affect the liability of Respondent arising out of property conditions at the Site unknown at the time of completion of the removal action to be performed pursuant to this Order.

XIII. STIPULATED AND STATUTORY PENALTIES

After a notice of non-compliance with this Order and a reasonable opportunity to cure, for each day or portion thereof that Respondent fails to perform fully any requirements of this Order in accordance with any schedule established pursuant to this Order, within the sole discretion of US-EPA, Respondent shall be liable as follows:

After a notice of non-compliance with this Order and a reasonable opportunity to cure, then on receipt of written demand by US-EPA, Respondent shall make payment of the stipulated penalties calculated below to US-EPA within thirty (30) days. Interest shall accrue on late payments as of the date the payment is due, which is the date 31 days after receipt of the written demand for payment of penalties under this Section.

A "reasonable opportunity to cure," as used in this Section, shall not exceed thirty (30) days unless otherwise determined by US-EPA in its sole discretion and expressly stated in writing by US-EPA. Penalties shall accrue and be assessed after the expiration of the reasonable opportunity to cure, and shall relate back to the date of the action or inaction germane to the notice of non-compliance. Even if violations are simultaneous, separate penalties shall accrue for separate violations of this Order. The payment of penalties shall not alter in any way Respondent's obligations to complete the performance of the work required under this Order.

The following stipulated penalties shall accrue per violation per day as follows:

<u>Period of Non-Compliance</u>	<u>Penalty per Violation per Day</u>
First Day through 14 th day	\$750
15 th day through 30 th day	\$2,500
31 st day and thereafter	\$5,000

Respondent also may be subject to punitive damages in an amount up to three times the amount of any cost incurred by the United States as a result of such violation. Should Respondent violate this Order or any portion thereof, US-EPA may carry out any required action unilaterally, pursuant to CERCLA Section 104 (42 U.S.C. § 9604), and may seek judicial enforcement of this Order.

XIV. OTHER CLAIMS/RESPONDENT'S COVENANT NOT TO SUE

By issuance of this Order, the United States and US-EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondent. The United States or US-EPA shall not be deemed a party to any contract entered into by the Respondent or its directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Order.

Except as expressly provided in Sections IX ("Reimbursement of Costs") and XV ("Covenant Not to Sue") of this Order, nothing in this Order constitutes a satisfaction of or release from any claim or cause of action against Respondent or any other person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or the common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. Sections 9606(a) and 9607(a).

This Order does not constitute a preauthorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. Section 9611(a)(2). The Respondent waives any claim to payment under Sections 106(b), 111, and 112 of CERCLA, 42 U.S.C. Sections 9606(b), 9611, and 9612, against the United States or the Hazardous Substance Superfund arising out of any action performed under this Order.

The Respondent further covenants not to sue and agrees not to assert any claims or causes of action against the United States with respect to the Patterson Site, the Vernalis Tank, Oversight Costs, or this Order, and including, but not limited to: (1) claims or causes of action against any department, agency or instrumentality of the United States under CERCLA Section 107 or 113 of CERCLA, 42 U.S.C. §§9607 and 9613, related to the Patterson Site or the Vernalis Tank; and, (2) any claims or causes of action arising out of response activities at the Patterson Site or the Vernalis Tank, including those based on US-EPA's selection of response actions, oversight of response activities or approval of plans for such activities.

No action or decision by US-EPA pursuant to this Order shall give rise to any right to judicial review except as set forth in Section 113(h) of CERCLA, 42 U.S.C. Section 9613(h).

XV. UNITED STATES COVENANT NOT TO SUE

Except as provided in Section XII of this Order (Reservation of Rights), on issuance of the US-EPA notice referred to in Section XIX of this Order (Notice of Completion), US-EPA covenants not to sue Respondent pursuant to Sections 106 and 107(a) of CERCLA, or to take administrative action against Respondent pursuant to Sections 106 and 107(a) of CERCLA, for Oversight Costs, performance of the work required in this Order, and the work required by or EPA response costs incurred in connection with the ARCO Order, UAO 98-12, UAO 98-12A, and the Chevron Order.

These covenants not to sue are conditioned on the complete and satisfactory performance by Respondent of its obligations under this Order. These covenants not to sue extend only to the Respondent and do not extend to any other person.

XVI. CONTRIBUTION PROTECTION

Except as expressly set forth herein, nothing in this Order shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Order. With regard to claims for contribution against Respondent for matters addressed in this Order, the Parties hereto agree that Respondent is entitled to protection from contribution actions or claims, including any such

claims by any persons not Parties to this Order, to the maximum extent provided by Section 113(f), and 122(h)(4) of CERCLA, 42 U.S.C. Sections 9613(f), and 9622(h)(4).

For purposes of this Section XVI, the "matters addressed" in this Order shall include all claims against Respondent, including claims for Oversight Costs, arising from response actions at the Patterson Site and the Vernalis Tank consistent with the scope of work anticipated in this Order, UAO 98-12, UAO 98-12A, the Chevron Order and the ARCO Order.

Nothing in this Order precludes US-EPA or Respondent from asserting any claims, causes of action or demands against any persons not Parties to this Order for indemnification, contribution, or cost recovery.

XVII. INDEMNIFICATION

Respondent agrees to indemnify, save and hold harmless the United States, its officials, agents, contractors, subcontractors, employees and representatives from any and all claims or causes of action: (A) arising from, or on account of, acts or omissions of Respondent, Respondent's officers, directors, employees, agents, contractors, subcontractors, receivers, trustees, successors or assigns, in carrying out actions pursuant to this Order; and (B) for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between Respondent and any persons for performance of work on or relating to the Vernalis Tank, including claims on account of construction delays, but excluding the subject matter of, or actions relating to, UAO 98-12, UAO 98-12A or the Chevron Order when the cause or damages or claim for indemnification is not the result of any action or activity of the Respondent.

The requirements of this Paragraph do not apply to any incident, or change in conditions relating to actions conducted pursuant to UAO 98-12, UAO 98-12A or the Chevron Order, or releases or threats of releases, or an endangerment to the public health, welfare, or the environment related to the subject matter of UAO 98-12, UAO 98-12A or the Chevron Order, so long as the incident, change in conditions, releases or threats of releases are not the result of any action or activity of the Respondent.

Respondent agrees to pay the United States all costs incurred by the United States, including litigation costs, arising from or on account of claims made against the United States based on any of the acts or omissions of Respondent, Respondent's officers, directors, employees, agents, contractors, subcontractors, receivers, trustees and successors or assigns. Respondent waives all claims against the United States for damages or reimbursement or for set-off of any payments made or to be made by Respondent to the United States arising from or on account of any contract, agreement, or arrangement between Respondent and any person for the performance of work on or relating to the Patterson Site or the Vernalis Tank, including, but not limited to claims on account of construction delay.

///

XVIII. MODIFICATIONS

If Respondent seeks permission to deviate from the requirements of this Order or any approved work plan or schedule, in addition to any notice required by Section VII, Paragraph 11 of this Order, Respondent's Project Coordinator shall submit a written request to the US-EPA OSC for approval, outlining the proposed modification and its basis. US-EPA's OSC shall respond to any such written request in writing, approving, approving with conditions, or denying Respondent's request. If Respondent disagrees with the decision of the OSC, it may follow the procedures set forth in the Dispute Resolution section of this Order.

No informal advice, guidance, suggestion, or comment by US-EPA regarding reports, plans, specifications, schedules, or any other writing submitted by the Respondent shall relieve the Respondent of its obligation to obtain such formal approval as may be required by this Order, and to comply with all requirements of this Order unless it is formally modified.

XIX. NOTICE OF COMPLETION

When US-EPA determines, after US-EPA's review of the Final Report, described in Section VII, Paragraph 3(i) of this Order, that the response action has been fully performed in accordance with this Order, with the exception of any continuing obligations required by this Order, US-EPA will provide written notice to the Respondent of such determination. If US-EPA determines that the response action has not been completed in accordance with this Order, US-EPA will notify the Respondent in writing, provide a list of the deficiencies, and require that Respondent correct such deficiencies. Respondent shall correct such deficiencies and shall submit a modified Final Report in accordance with US-EPA's notice. Failure by Respondent to correct the identified deficiencies shall be a violation of this Order.

XX. PUBLIC COMMENT

Section 122(i) of CERCLA, 42 U.S.C. Section 9622(i), requires US-EPA to publish notice of this proposed settlement in the Federal Register, to provide persons who are not parties to the proposed settlement with an opportunity to comment, after which US-EPA will consider those comments filed in determining whether to consent to the proposed settlement. After consideration of any comments submitted during the thirty (30) day public comment period held pursuant to Section 122(i) of CERCLA, US-EPA may withdraw or withhold consent to of this Order if comments received disclose facts or considerations that indicate that this Order is inappropriate, improper or inadequate.

XXI. SEVERABILITY

If a court issues an order that invalidates any provision of this Order, or finds that Respondent has sufficient cause not to comply with one or more provisions of this Order, the Respondent shall remain bound to comply with all provisions of this Order not invalidated or determined to be subject to a sufficient cause defense by the court's order. If a court invalidates either the covenant not to sue or the contribution protection provisions of this Order, ARCO and US-EPA

agree to negotiate in good faith an amendment to this Order that implements the covenant not to sue and the contribution protection provisions in a manner that complies with the court's order.

XXII. EFFECTIVE DATE

This Order shall be effective five (5) days after the Order is signed by the Regional Director of Superfund Division or his designee (the "Effective Date"). The signing of this Order by the Regional Director of Superfund Division or his designee follows the Public Comment period described in Section XXI of this Order.

XXIII. PROVISION OF NOTICE

Any written notice required to be given pursuant to this Order shall be sent via overnight mail. Such notice shall be given as follows:

As to US-EPA:

Richard Martyn
On-Scene Coordinator
United States Environmental
Protection Agency, Region IX
75 Hawthorne Street
San Francisco, California 94105
Telephone: (415) 744-1500

As to Respondent:

Neil Norcross
BP
1801 East Sepulveda Boulevard
Carson, California 90745
Telephone: (310) 816-8520

Copy to:

Todd L. Normane
BP West Coast Legal Group
444 South Flower Street, Rm 3569
Los Angeles, California 90071
Telephone: (213) 486-3243
Facsimile: (213) 486-3969
email: normantl@bp.com

Any oral notice required to be given pursuant to this Order may be given to the respective Parties using the telephone numbers referenced above. Any Party may change its address for notice purposes by sending a notice of address change to the other Parties.

///

XXIV. EXECUTION IN COUNTERPARTS

This Order may be executed in any number of counterparts, each of which when executed and delivered to US-EPA shall be deemed to be an original, but such counterparts shall together constitute one and the same document. The Parties agree that proof of execution can be made by a Party providing a facsimile copy of an original signature.

The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions of this Order and to bind the party that he/she represents to this document.

Agreed this _____ day of _____, 2001.

By _____

Title _____

For _____

"Respondent"

[Separate Signature Page Following For The United States Environmental Protection Agency]

The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions of this Order and to bind the party that he/she represents to this document.

Agreed this 6 day of November, 2001.

By Michael P. Hoffman

Title Carson Business Unit Leader

For Atlantic Richfield Company
"Respondent"

TEN
10-17-01

[Separate Signature Page Following For The United States Environmental Protection Agency]

It is so ORDERED and Agreed this _____ day of _____ 2001.

DEC 14 2001

By: Keith Takata
Keith Takata

Regional Director of Superfund Division
Region IX
United States Environmental Protection Agency